

REMARKS

This Amendment is filed in response to the Official Action mailed November 22, 2007. In this Amendment, claims 24, 25, 37, and 38 are amended and claims 1-23, 26-36 and 39 are unchanged. Following entry of this amendment, claims 1-39 shall be pending.

In the Office Action, claim 3 is rejected as lacking antecedent basis, and claims 1-39 have been rejected based on prior art grounds. For the reasons set forth below, these rejections are hereby traversed.

I. REJECTIONS UNDER 35 U.S.C. SECTION 112

The Examiner rejected claim 3 under 35 U.S.C. 112, second paragraph, as being indefinite because "claim 1 is seen to be not generic to claim 3 as no weld with the claimed longitudinal axis is apparently disclosed". While the Examiner cites 35 U.S.C. 112, second paragraph relating to indefiniteness, the explanation appears to relate to a written description issue (35 U.S.C. 112, first paragraph). It is unclear which rejection is being raised by the Examiner, however both issues will be addressed below.

Turning to the indefiniteness rejection, this argument asserts that claim 1 is not generic to claim 3 because a weld cannot be a connecting member. Since a weld is an object that connects two other objects, it is difficult to see how the recited term "connecting member" would not encompass a "weld", particularly in light of the disclosure of the present application (see next paragraph).

Turning to the written description rejection, this argument asserts that a connecting member that is a weld is not disclosed in the present application. However, the specification teaches the use of welds for such connections, for example in paragraph 0053.

Thus, either interpretation of the section 112 rejection fails. Hence it is requested that this rejection of claim 3 be withdrawn.

II. MISCELLANEOUS AMENDMENTS

Claims 24, 25, 37, and 38 have been amended to correct various typographical errors. Specifically the spelling of the term weight was corrected.

III. REJECTIONS UNDER 35 U.S.C. SECTION 102 AND 103

Claims 30 and 31 are rejected under 35 U.S.C. Section 102(e) as being anticipated by U.S. Patent No. 6,454,336 to *Nye et al. (The Nye et al. Patent)*. For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

The Nye et al. Patent cannot be properly relied upon as anticipating the invention as recited in claims 30 and 31. The earliest possible effective filing date of *The Nye et al. Patent* is April 13th, 2000. As described in the Declaration of Raymond Blodgett, Jr. dated January 19, 2005, the Supplemental Declaration of Raymond Blodgett, Jr. dated July 27, 2005, the Declaration of Larry Revelino Under 37 C.F.R. Section 1.131 (submitted with this Amendment) and all Exhibits included with these Declarations, the present invention as claimed in claims 30 and 31 was conceived at least as early as February 4, 2000 and diligently reduced to practice thereafter. In this regard, the Examiner is directed to the previously filed arguments in this case (e.g., the Amendment of July 27, 2005) with regard to the date of conception. Thus, for at least this reason *The Nye et al. Patent* fails to predate the present invention. Hence it is requested that this rejection of claims 30 and 31 (and any other rejections based on *Nye*) be withdrawn.

Claims 1-2, 11-14, 19-22, 27-29 are rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent Publication No. 2002/0084664 to *McManus et al. (The McManus et al. Patent)*. Claims 3-10, 12, 15-17, 23-25, 29, 30-34, and 36-38 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over *The McManus et al. Patent* in view of *The Nye et al. Patent*. Claims 18, 26, 35, and 39 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over *The McManus et al. Patent* in

view of U.S. Patent No. 6,108,983 to Dewald et al. (*The Dewald et al. Patent*). For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

In the November 22, 2006 Office Action, the Examiner asserts that the Supplemental Declaration of Raymond Blodgett, Jr. dated July 27, 2005 under 37 CFR 1.131 is insufficient, upon further consideration, to overcome the *McManus et al. Patent*. More specifically, the Examiner asserts that no showing of any claimed connecting area having a longitudinal axis, etc., is present and that merely a cross-section of a double tube is shown. Further, the Examiner asserts that it is not even clear that the affidavit tube is comprised of a first and second rail, or two members joined.

Beginning first with the Examiner's assertion that no rails are shown, the Examiner is directed to Exhibit 1 of The Supplemental Declaration of Raymond Blodgett, Jr. dated July 27, 2005. As seen best on page 4 of Exhibit 1 and as conceded by the Examiner, a cross section of a double tube is shown. One definition, provided herein for nonlimiting exemplary purposes defines rail as a bar of wood or metal fixed horizontally for any of various purposes, as for a support, barrier, fence, or railing. "rail." *Dictionary.com Unabridged (v 1.1)*. Random House, Inc. 15 May. 2007. <Dictionary.com <http://dictionary.reference.com/browse/rail>>. The "tubes" seen in Exhibit 1 are positioned in an approximate horizontal position for supporting the slide-out room and therefore are a type of rail as claimed.

With further regard to this issue, the Examiner is also directed to paragraphs 7 and 8 of the Declaration of Larry Revelino Under 37 C.F.R. Section 1.131. These paragraphs corroborate that Mr. Blodgett's conception included a first support rail being fixedly connected to a second support rail along longitudinally opposing sides of said first support rail and said second support rail at a connecting area as claimed herein. For this reason too it is submitted that the Examiner's position on this point is improper.

Turning next to the Examiner's assertion that two members are not shown joined, the Examiner is again directed to Exhibit 1 of The Supplemental Declaration of

Raymond Blodgett, Jr. dated July 27, 2005. As seen best on page 3 of Exhibit 1, the two tubes are clearly shown touching each other with a gear rack overlapping both tubes (as well as the interface or joint between both tubes). Further, page 4 of Exhibit 1 shows a profile view of the "dual tube support ram" with the gear rack at the bottom side of the dual tubes and engaged with a gear pinion. This drawing only makes sense if the gear rack is connected to both tubes (i.e., connecting longitudinally along the length of the tubes), otherwise the rotating gear pinion would not extend or retract the slide-out room. Thus, at a minimum, Exhibit 1 shows that the two tubes are at least connected by the area directly below the gear rack.

Further evidence that the two tubes of Exhibit 1 were connected and that Exhibit 1 shows this connection can be found in the Declaration of Larry Revelino Under 37 C.F.R. Section 1.131. At paragraphs 10-14 of his Declaration, Mr. Revelino declares that the embodiment shown in Exhibit 1 (attached to the Revelino Declaration also as Exhibit 1) shows that the two tubes were connected together at a connecting area such as a weld. Additionally at paragraph 14, Mr. Revelino declares on or about the time of invention, the inventor, Mr. Blodgett, communicated to him that in one embodiment these tubes are welded together.

Finally, the Examiner asserts that Exhibit 1 does not show a "connecting area, connecting area having a longitudinal axis, linking portion parallel to a longitudinal axis of each of the rails, junction with longitudinal axis parallel...rails, junction positioned parallel...rails, and rails...fixed along a vertical direction". As previously discussed, Exhibit 1 at least discloses a connection between the gear rack and the two tubes and therefore discloses a connecting area as claimed. Since the gear rack is elongated, it has a longitudinal axis and therefore a connecting area with a longitudinal axis as claimed. Similarly, since the gear rack is shown in Exhibit 1 as connecting to the surface of the tubes and therefore located at the same orientation as the tubes, Exhibit 1 at least discloses a "linking portion parallel to a longitudinal axis of each of the rails, junction with longitudinal axis parallel...rails, junction positioned parallel...rails and rails...fixed along a vertical direction".

With further regard to this issue, the Examiner is also directed to paragraphs 7 and 8 of the Declaration of Larry Revelino Under 37 C.F.R. Section 1.131. These paragraphs corroborate that Mr. Blodgett's conception included a connecting area, connecting area having a longitudinal axis, linking portion parallel to a longitudinal axis of each of the rails, junction with longitudinal axis parallel...rails, junction positioned parallel...rails, and rails...fixed along a vertical direction as claimed herein. For this reason too it is submitted that the Examiner's position on this point is improper.

In summary, the Declaration of Raymond Blodgett, Jr. dated January 19, 2005, the Supplemental Declaration of Raymond Blodgett, Jr. dated July 27, 2005, the Declaration of Larry Revelino Under 37 C.F.R. Section 1.131 and all Exhibits included with these Declarations show that an embodiment of the present invention was invented at least prior to the filing of *The McManus et al. Patent* and *The Nye et al. Patent* and that this embodiment falls within the scope of the independent claims of the pending Application. Thus, *The McManus et al. Patent* and *The Nye et al. Patent* are not properly asserted as prior art to the claimed invention.

Furthermore, without *The McManus et al. Patent* and *The Nye Patent* available for consideration, the rejections of the claims under 35 U.S.C. 102(e) and 35 U.S.C. 103(a) fail. Therefore, these rejections against claims 1-39 should be withdrawn.

Applicant: Raymond Willis Blodgett, Jr.
Serial No.: 10/766,267
Art Unit: 3612

PATENT
Atty Docket: 18393-512

CONCLUSION

In view of the foregoing, it is submitted that pending claims 1-39 are now in condition for allowance. Hence an indication of allowability is hereby requested.

If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,


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